

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DALE BECKHAM,

Petitioner,

vs.

WARDEN, LEBANON CORRECTIONAL
INSTITUTION,

Respondent.

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Case No. 3:04cv138

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE (DOC. #11); PETITIONER'S
OBJECTIONS TO SAID JUDICIAL FILING (DOC. #12) OVERRULED;
DECISION AND ENTRY ADOPTING MAGISTRATE JUDGE'S ORDER
DENYING MOTION TO COMPEL (DOC. #13), STRIKING SUPPLEMENT TO
TRAVERSE (DOC. #17) AND DENYING MOTION TO PRODUCE AND
SUBMIT DOCUMENTS ON BEHALF OF TRAVERSE (DOC. #19);
PETITIONER'S MOTION TO RECONSIDER (DOC. #15) MAGISTRATE
JUDGE'S ORDER DENYING MOTION TO COMPEL (DOC. #14)
OVERRULED; JUDGMENT TO ENTER IN FAVOR OF RESPONDENT AND
AGAINST PETITIONER, DISMISSING PETITION FOR WRIT OF HABEAS
CORPUS ON THE GROUNDS OF PROCEDURAL DEFAULT (FIRST AND
FOURTH CLAIMS FOR RELIEF) AND UPON THE MERITS (SECOND AND
THIRD CLAIMS FOR RELIEF); CERTIFICATE OF APPEALABILITY AND
ANTICIPATED REQUEST FOR LEAVE TO APPEAL *IN FORMA PAUPERIS*
DENIED; TERMINATION ENTRY

Based upon the reasoning and citations of authority set forth in the Report and Recommendations of the United States Magistrate Judge (Doc. #11), as well as upon a thorough *de novo* review of this Court's file and the applicable law, said Report and Recommendations are adopted in their entirety. The Petitioner's Objections to said judicial filing (Doc. #12) are overruled. In addition, this Court adopts the reasoning and conclusions set forth by the Magistrate Judge in overruling Petitioner's Motion to Compel (Doc. #13), Order Striking Supplement to Traverse (Doc. #19) and Order Denying Motion to Produce and Submit Documents on Behalf of Traverse (Doc. #19). The Petitioner's Motion to Reconsider (Doc. #15) the decision of the Magistrate Judge (Doc. #14) overruling Petitioner's Motion to Compel (Doc. #13) is denied.

Judgment will be ordered entered in favor of the Respondent and against Petitioner herein, dismissing the Petitioner's Petition for Writ of Habeas Corpus, as procedurally defaulted (first and fourth claims for relief) and upon the merits (second and third claims for relief).

Given that this Court's conclusions herein would not be debatable among reasonable jurists and, further, given that Petitioner has failed to establish a denial of a constitutional right, this Court denies Petitioner a Certificate of Appealability and any anticipated requests for leave to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

March 8, 2006

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies mailed to:

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